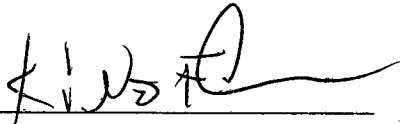


I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

FILED MAR 11 2003

By: 

H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the duties of the Rio Grande watermaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.3271, Water Code, is added to read as follows:

Sec. 11.3271. DUTIES OF RIO GRANDE WATERMASTER. (a) This section applies to the watermaster with jurisdiction for the Rio Grande.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties shall not include activities
2 that relate to other programs of the commission, except as
3 provided in this section. The watermaster's duties shall include
4 activities that relate to situations of imminent threat to public
5 health and safety or the environment. The commission by rule
6 shall define situations of imminent threat under this section,
7 and the rules must address terrorism response.

8 (f) The watermaster, under a permit issued by and in
9 accordance with rules prescribed by the commission, may store for
10 release at a later time water in transit in a reservoir en route
11 to the place of use or point of diversion by the purchaser. In
12 this section, "water in transit" means water, not including state
13 water, that a person has pumped from an underground reservoir
14 from the point of discharge into the river to the place of use or
15 the point of diversion by a person who has contracted with the
16 owner of the water in transit to purchase, provided that the
17 contract specify that the contract is for the purchase and
18 delivery of a specified amount of water less the carriage losses
19 incurred in transit, as described and measured by commission
20 rules.

21 SECTION 2. (a) This Act takes effect September 1, 2003.

22 (b) As soon as practicable after September 1, 2003, the
23 Texas Natural Resources Conservation Commission shall adopt rules
24 necessary for the implementation of this Act and shall expedite

1 any application for a permit to be issued under Section 11.3271,
2 Water Code, as added by this Act.

HOUSE COMMITTEE REPORT

03 APR 29 PM 4: 14
HOUSE OF REPRESENTATIVES

1st Printing

By: Flores

H.B. No. 2250

Substitute the following for H.B. No. 2250:

By: Hamilton

C.S.H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 11, Water Code, is amended by adding Section 11.3271 to read as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
14 section, "water in transit" means privately owned water, not
15 including state water, that a person has pumped from an underground
16 reservoir and that is in transit between the point of discharge into
17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
20 purchase and delivery of a specified amount of water less the
21 carriage losses incurred in transit, as described and measured
22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
3 and bed of the Rio Grande, the commission shall adopt rules that
4 provide for the methods and procedures by which the watermaster
5 shall account for any discharge, delivery, conveyance, storage,
6 diversion, or associated loss of water conveyed down the banks and
7 bed of the Rio Grande. A permit to convey water down the banks and
8 bed of the Rio Grande may not allow the permit holder to share in any
9 beneficial state water inflows into the Rio Grande. The permit
10 holder is entitled to convey only the amount of water specified in
11 the permit, less the carriage losses incurred in transit, as
12 described and measured according to commission rules. A rule
13 adopted by the commission under this subsection must be consistent
14 with the Treaty Relating to the Utilization of the Waters of the
15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
17 States and the United Mexican States on February 3, 1944, and with
18 any minute order adopted by the International Boundary and Water
19 Commission.

20 (i) In considering an application for a permit to convey
21 water down the banks and bed of the Rio Grande, the commission shall
22 consider the quality of the water to be conveyed. The commission
23 may not issue a permit if it determines that the water to be
24 conveyed would degrade the water quality of the Rio Grande.

25 (j) Notwithstanding any other law, the watermaster is the
26 official recorder for all instruments, including deeds, deeds of
27 trust, financing statements, security agreements, and liens, that

1 the commission authorizes or requires to be filed in connection
2 with water rights relating to water in the lower, middle, or upper
3 basin of the Rio Grande that are subject to a permit, certified
4 filing, or certificate of adjudication. An instrument shall be
5 filed with the watermaster under this subsection in the same manner
6 as required by other law for the same type of instrument. The
7 filing of an instrument under this subsection results in the same
8 legal and administrative status and consequences as a filing under
9 other law for the same type of instrument. An instrument filed
10 under this subsection shall be construed by a court, financial
11 institution, or other affected person in the same manner as an
12 instrument of the same type that is filed under other law. The
13 watermaster may charge and collect a fee for the recordation of
14 instruments under this subsection in the same amount as the fee
15 collected by the county clerk of Cameron County for the recordation
16 of similar instruments. The commission by rule shall prescribe the
17 procedures necessary for the proper implementation of this
18 subsection, including reasonable transition provisions, if
19 appropriate.

20 SECTION 2. This Act does not apply to the Rio Grande above
21 the Fort Quitman Dam.

22 SECTION 3. (a) This Act takes effect September 1, 2003.

23 (b) As soon as practicable after September 1, 2003, the
24 Texas Commission on Environmental Quality shall adopt rules
25 necessary for the implementation of this Act and shall expedite any
26 application for a permit for the delivery of water down the banks
27 and bed of the Rio Grande under Section 11.042, Water Code.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/28/03
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 2250 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- ☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes () no A fiscal note was requested.
- () yes ☒ no A criminal justice policy impact statement was requested.
- () yes ☒ no An equalized educational funding impact statement was requested.
- () yes ☒ no An actuarial analysis was requested.
- () yes ☒ no A water development policy impact statement was requested.
- () yes ☒ no A tax equity note was requested.
- ☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Campbell				X
Cook, R.	X			
Geren	X			
Hamilton	X			
Hardcastle	X			
Hope	X			
Wolens				X

Total

7 aye
0 nay
0 present, not voting
2 absent

M. F. M. V.
CHAIR

BILL ANALYSIS

C.S.H.B. 2250
By: Flores
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Rio Grande Watermaster is responsible for allocating, monitoring and controlling the use of surface water in the Rio Grande Basin from Fort Quitman to the mouth of the Rio Grande. Unlike elsewhere in Texas where water is a flow resource, surface water in the Rio Grande below Amistad is a stock resource meaning that water accumulates in Amistad and Falcon reservoirs and is released on demand. Amistad and Falcon reservoirs are considered one system with water frequently released from the upstream dam (Amistad) to replenish Falcon reservoir and meet the demands in the Lower Rio Grande Valley. The watermaster is the authorized agent allowed to request releases of United States water held in storage at Amistad/Falcon.

In addition to existing authority of watermasters, the bill makes clear that the Rio Grande watermaster has certain roles in cases of imminent threat to public health and safety or the environment. The bill requires the Texas Commission on Environmental Quality (TCEQ) to make rules in this area to define the scope of those duties.

The bill also makes clear that the Rio Grande watermaster has the authority, in accordance with rules prescribed by the TCEQ, to transport new water from an upriver seller to a down river buyer and to divert the water to the buyer (subject to a water loss formula). A bed and banks permit would be required for the transportation of the water.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 11.3271, Subchapter G, Water Code) and SECTION 3 (Section 11.3271, Subchapter G, Water Code) of this bill.

ANALYSIS

SECTION 1. Amends the Texas Water Code to add a section which applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed. The bill requires the watermaster to divide the water of the streams or other sources of supply in accordance with the adjudicated water rights; requires the watermaster to regulate the controlling works of reservoirs and diversion works in time of water shortage, as is necessary due to rights existing in the streams, to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled; and authorizes the water master to regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

C.S.H.B. 2250 also prohibits the duties of the watermaster in any activities relating to other programs of the commission, except as provided in this section. The bill stipulates that the duties of the watermaster include activities of imminent threat to public health and safety or the environment. Further, the bill requires the commission to adopt rules to define situations of imminent threat, and the rules must address terrorism response.

C.S.H.B. 2250 also authorizes the watermaster to store water in transit for release at a later time. The bill defines "water in transit" as water, not including state water, that a person has pumped from an underground reservoir from the point of discharge into the river to the place of use or the point

of diversion by a person who has contracted with the owner of the water in transit to purchase, provided that the contract specify that the contract is for the purchase and delivery of a specified amount of water less the carriage losses incurred in transit, as described and measured by commission rules.

C.S.H.B. 2250 also stipulates that the watermaster may only allow storage of the water when the storage will not hinder any other Rio Grande surface water right's ability to store its maximum authorized capacity. The bill also provides that prior to issuing a permit to convey water, the TCEQ shall adopt rules providing for the method to account for all water conveyed via this Act. Further, the bill stipulates that a permit holder may not share in any beneficial state water inflows into the Rio Grande, and the permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses, as described and measured by commission rules. Also, the bill provides that any rules adopted must be consistent with certain treaties and minute orders. The bill also stipulates that a permit may not be issued if the water to be conveyed would degrade the water quality of the Rio Grande.

Finally, C.S.H.B. 2250 names the Rio Grande Watermaster as the official recorder for all financial instruments that deal with the purchase of water rights. All financial records, including liens, would be required to be filed with the Rio Grande Watermaster.

SECTION 2. This section stipulates that the Act does not apply to the Rio Grande above the Fort Quitman Dam.

SECTION 3. Effective Date. This section also requires the Texas Natural Resources Conservation Commission to adopt rules for the implementation of this Act and requires the commission to expedite any application for a permit to be issued under Section 11.042, Water Code.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2250 adds a new subsections (g), (h), (i), and (j) to Section 11.3271, Water Code, which add the following requirements:

C.S.H.B. 2250 stipulates that the watermaster may only allow storage of the water when the storage will not hinder any other Rio Grande surface water right's ability to store its maximum authorized capacity. The bill also provides that prior to issuing a permit to convey water, the TCEQ shall adopt rules providing for the method to account for all water conveyed via this Act. Further, the bill stipulates that a permit holder may not share in any beneficial state water inflows into the Rio Grande, and the permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses, as described and measured by commission rules. Also, the bill provides that any rules adopted must be consistent with certain treaties and minute orders. The bill also stipulates that a permit may not be issued if the water to be conveyed would degrade the water quality of the Rio Grande.

Finally, C.S.H.B. 2250 names the Rio Grande Watermaster as the official recorder for all financial instruments that deal with the purchase of water rights. All financial records, including liens, would be required to be filed with the Rio Grande Watermaster.

C.S.H.B. 2250 also adds a provision which stipulates that the Act does not apply to the Rio Grande above the Fort Quitman Dam.

SUMMARY OF COMMITTEE ACTION

HB 2250

April 2, 2003 3:00PM or upon final adjourn./recess

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Amendment(s) considered in committee

Left pending in committee

April 28, 2003 upon lunch recess

Considered in formal meeting

Committee substitute considered in committee

Amendment(s) considered in committee

Recommended to be sent to Local & Consent

Reported favorably as substituted

WITNESS LIST

HB 2250
HOUSE COMMITTEE REPORT
Natural Resources Committee

April 2, 2003 - 3:00PM or upon final adjourn./recess

On: Halbert, Wayne (Texas Irrigation Council)
Hoffman, Margaret (Texas Commission on Env. Quality)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 29, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>WATERMASTER ADMINISTRATION</i> 158	Probable (Cost) from <i>WATERMASTER ADMINISTRATION</i> 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
2005	\$106,043	(\$106,043)	2.0
2006	\$106,043	(\$106,043)	2.0
2007	\$106,043	(\$106,043)	2.0
2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

5

In addition, the bill would include as a duties of the watermaster activities that address situations of imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river. In addition, current law does not require water quality to be considered as a basis for granting water rights, so it is expected that the watermaster would have additional workload determining the impact of a water right on water quality.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 1, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the duties of the Rio Grande watermaster.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
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2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

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Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, CL, DLBa, TL

8

ADOPTED

MAY 02 2003

Robert Haney
Chief Clerk
House of Representatives

By: Flores

H.B. No. 2250

Substitute the following for H.B. No. 2250:

By: Hamilton

C.S. H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 11, Water Code, is amended by adding Section 11.3271 to read as follows:

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(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
14 section, "water in transit" means privately owned water, not
15 including state water, that a person has pumped from an underground
16 reservoir and that is in transit between the point of discharge into
17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
20 purchase and delivery of a specified amount of water less the
21 carriage losses incurred in transit, as described and measured
22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
3 and bed of the Rio Grande, the commission shall adopt rules that
4 provide for the methods and procedures by which the watermaster
5 shall account for any discharge, delivery, conveyance, storage,
6 diversion, or associated loss of water conveyed down the banks and
7 bed of the Rio Grande. A permit to convey water down the banks and
8 bed of the Rio Grande may not allow the permit holder to share in any
9 beneficial state water inflows into the Rio Grande. The permit
10 holder is entitled to convey only the amount of water specified in
11 the permit, less the carriage losses incurred in transit, as
12 described and measured according to commission rules. A rule
13 adopted by the commission under this subsection must be consistent
14 with the Treaty Relating to the Utilization of the Waters of the
15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
17 States and the United Mexican States on February 3, 1944, and with
18 any minute order adopted by the International Boundary and Water
19 Commission.

20 (i) In considering an application for a permit to convey
21 water down the banks and bed of the Rio Grande, the commission shall
22 consider the quality of the water to be conveyed. The commission
23 may not issue a permit if it determines that the water to be
24 conveyed would degrade the water quality of the Rio Grande.

25 (j) Notwithstanding any other law, the watermaster is the
26 official recorder for all instruments, including deeds, deeds of
27 trust, financing statements, security agreements, and liens, that

1 the commission authorizes or requires to be filed in connection
2 with water rights relating to water in the lower, middle, or upper
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4 filing, or certificate of adjudication. An instrument shall be
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10 under this subsection shall be construed by a court, financial
11 institution, or other affected person in the same manner as an
12 instrument of the same type that is filed under other law. The
13 watermaster may charge and collect a fee for the recordation of
14 instruments under this subsection in the same amount as the fee
15 collected by the county clerk of Cameron County for the recordation
16 of similar instruments. The commission by rule shall prescribe the
17 procedures necessary for the proper implementation of this
18 subsection, including reasonable transition provisions, if
19 appropriate.

20 SECTION 2. This Act does not apply to the Rio Grande above
21 the Fort Quitman Dam.

22 SECTION 3. (a) This Act takes effect September 1, 2003.

23 (b) As soon as practicable after September 1, 2003, the
24 Texas Commission on Environmental Quality shall adopt rules
25 necessary for the implementation of this Act and shall expedite any
26 application for a permit for the delivery of water down the banks
27 and bed of the Rio Grande under Section 11.042, Water Code.

F

HOUSE ENGROSSMENT

By: Flores

H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 11, Water Code, is amended by adding Section 11.3271 to read as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
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15 including state water, that a person has pumped from an underground
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17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
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22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
3 and bed of the Rio Grande, the commission shall adopt rules that
4 provide for the methods and procedures by which the watermaster
5 shall account for any discharge, delivery, conveyance, storage,
6 diversion, or associated loss of water conveyed down the banks and
7 bed of the Rio Grande. A permit to convey water down the banks and
8 bed of the Rio Grande may not allow the permit holder to share in any
9 beneficial state water inflows into the Rio Grande. The permit
10 holder is entitled to convey only the amount of water specified in
11 the permit, less the carriage losses incurred in transit, as
12 described and measured according to commission rules. A rule
13 adopted by the commission under this subsection must be consistent
14 with the Treaty Relating to the Utilization of the Waters of the
15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
17 States and the United Mexican States on February 3, 1944, and with
18 any minute order adopted by the International Boundary and Water
19 Commission.

20 (i) In considering an application for a permit to convey
21 water down the banks and bed of the Rio Grande, the commission shall
22 consider the quality of the water to be conveyed. The commission
23 may not issue a permit if it determines that the water to be
24 conveyed would degrade the water quality of the Rio Grande.

25 (j) Notwithstanding any other law, the watermaster is the
26 official recorder for all instruments, including deeds, deeds of
27 trust, financing statements, security agreements, and liens, that

1 the commission authorizes or requires to be filed in connection
2 with water rights relating to water in the lower, middle, or upper
3 basin of the Rio Grande that are subject to a permit, certified
4 filing, or certificate of adjudication. An instrument shall be
5 filed with the watermaster under this subsection in the same manner
6 as required by other law for the same type of instrument. The
7 filing of an instrument under this subsection results in the same
8 legal and administrative status and consequences as a filing under
9 other law for the same type of instrument. An instrument filed
10 under this subsection shall be construed by a court, financial
11 institution, or other affected person in the same manner as an
12 instrument of the same type that is filed under other law. The
13 watermaster may charge and collect a fee for the recordation of
14 instruments under this subsection in the same amount as the fee
15 collected by the county clerk of Cameron County for the recordation
16 of similar instruments. The commission by rule shall prescribe the
17 procedures necessary for the proper implementation of this
18 subsection, including reasonable transition provisions, if
19 appropriate.

20 (k) This section does not apply to the Rio Grande above the
21 Fort Quitman Dam.

22 SECTION 2. (a) This Act takes effect September 1, 2003.

23 (b) As soon as practicable after September 1, 2003, the
24 Texas Commission on Environmental Quality shall adopt rules
25 necessary for the implementation of this Act and shall expedite any
26 application for a permit for the delivery of water down the banks
27 and bed of the Rio Grande under Section 11.042, Water Code.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 29, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2250** by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from WATERMASTER ADMINISTRATION 158	Probable (Cost) from WATERMASTER ADMINISTRATION 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
2005	\$106,043	(\$106,043)	2.0
2006	\$106,043	(\$106,043)	2.0
2007	\$106,043	(\$106,043)	2.0
2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

In addition, the bill would include as a duties of the watermaster activities that address situations of imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river. In addition, current law does not require water quality to be considered as a basis for granting water rights, so it is expected that the watermaster would have additional workload determining the impact of a water right on water quality.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 1, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the duties of the Rio Grande watermaster.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

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2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water.

3

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, CL, DLBa, TL

4

1-1 By: Flores (Senate Sponsor - Lucio) H.B. No. 2250
1-2 (In the Senate - Received from the House May 5, 2003;
1-3 May 7, 2003, read first time and referred to Committee on Natural
1-4 Resources; May 21, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 21, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2250 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the powers and duties of the Rio Grande watermaster and
1-11 the delivery of water down the banks and bed of the Rio Grande.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter G, Chapter 11, Water Code, is amended
1-14 by adding Section 11.3271 to read as follows:

1-15 Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER;
1-16 DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This
1-17 section applies only to the watermaster with jurisdiction over the
1-18 Rio Grande and the water division for which that watermaster is
1-19 appointed.

1-20 (b) The watermaster shall divide the water of the streams or
1-21 other sources of supply of the division in accordance with the
1-22 adjudicated water rights.

1-23 (c) The watermaster shall regulate or cause to be regulated
1-24 the controlling works of reservoirs and diversion works in time of
1-25 water shortage, as is necessary because of the rights existing in
1-26 the streams of the division, or as is necessary to prevent the waste
1-27 of water or its diversion, taking, storage, or use in excess of the
1-28 quantities to which the holders of water rights are lawfully
1-29 entitled.

1-30 (d) The watermaster may regulate the distribution of water
1-31 from any system of works that serves users whose rights have been
1-32 separately determined.

1-33 (e) The watermaster's duties do not include activities that
1-34 relate to other programs of the commission, except as provided by
1-35 this section. The watermaster's duties shall include activities
1-36 that relate to situations of imminent threat to public health and
1-37 safety or the environment. The commission shall adopt rules:

1-38 (1) defining situations of imminent threat under this
1-39 section; and

1-40 (2) addressing the watermaster's duties in response to
1-41 terrorism.

1-42 (f) The watermaster may store in a reservoir for release at
1-43 a later time water in transit that is being conveyed down the banks
1-44 and bed of the Rio Grande under a permit issued by the commission
1-45 and in accordance with rules prescribed by the commission. In this
1-46 section, "water in transit" means privately owned water, not
1-47 including state water, that a person has pumped from an underground
1-48 reservoir and that is in transit between the point of discharge into
1-49 the river and the place of use or the point of diversion by a person
1-50 who has contracted with the owner of the water to purchase the
1-51 water. The contract must specify that the contract is for the
1-52 purchase and delivery of a specified amount of water less the
1-53 carriage losses incurred in transit, as described and measured
1-54 according to commission rules.

1-55 (g) The watermaster may store water under Subsection (f)
1-56 only if the storage does not hinder the ability of any other holders
1-57 of Rio Grande surface water rights to store the maximum authorized
1-58 capacity in a reservoir as specified by commission rules and
1-59 relevant permits, certified filings, or certificates of
1-60 adjudication.

1-61 (h) Before granting a permit to convey water down the banks
1-62 and bed of the Rio Grande, the commission shall adopt rules that
1-63 provide for the methods and procedures by which the watermaster

shall account for any discharge, delivery, conveyance, storage, diversion, or associated loss of water conveyed down the banks and bed of the Rio Grande. A permit to convey water down the banks and bed of the Rio Grande may not allow the permit holder to share in any beneficial state water inflows into the Rio Grande. The permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses incurred in transit, as described and measured according to commission rules. A rule adopted by the commission under this subsection must be consistent with the Treaty Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United States and the United Mexican States on February 3, 1944, and with any minute order adopted by the International Boundary and Water Commission.

(i) In considering an application for a permit to convey water down the banks and bed of the Rio Grande, the commission shall consider the quality of the water to be conveyed. The commission may not issue a permit if it determines that the water to be conveyed would degrade the water quality of the Rio Grande.

(j) The watermaster shall maintain a central repository which shall be made available to the public that includes certified copies of all instruments, including deeds, deeds of trusts, and liens, that the commission requires to be filed in connection with water rights relating to water in the lower, middle, or upper basin of the Rio Grande and that are subject to a permit, certified filing, or certificate of adjudication. On or after September 1, 2003, a lien against a water right shall not be effective against third parties unless a certified copy of the instrument is filed with the watermaster and all requirements under other law are met. The validity of any liens or filings made prior to September 1, 2003, is not affected by this section. This section does not affect the validity of a lien as between the holder of the water right and the holder of the lien or the requirements or validity of any other law governing the perfection and recordation of these instruments. The executive director may charge a fee for the filing of certified copies of instruments. A fee collected under this section shall be deposited to the credit of the watermaster fund.

(k) This section does not apply to the Rio Grande above the Fort Quitman Dam.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) As soon as practicable after September 1, 2003, the Texas Commission on Environmental Quality shall adopt rules necessary for the implementation of this Act and shall expedite any application for a permit for the delivery of water down the banks and bed of the Rio Grande under Section 11.042, Water Code.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 2250
By Flores / Lucio
(Author/Senate Sponsor)
5/21/03
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,
have on 5/16/03, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	<input checked="" type="checkbox"/>			
Senator Jackson, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Barrientos	<input checked="" type="checkbox"/>			
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Estes	<input checked="" type="checkbox"/>			
Senator Fraser	<input checked="" type="checkbox"/>			
Senator Hinojosa	<input checked="" type="checkbox"/>			
Senator Lindsay	<input checked="" type="checkbox"/>			
Senator Lucio	<input checked="" type="checkbox"/>			
Senator Shapiro	<input checked="" type="checkbox"/>			
Senator Staples			<input checked="" type="checkbox"/>	
TOTAL VOTES	9	0	2	0

COMMITTEE ACTION

\$260 Considered in public hearing
\$270 Testimony taken

Kelly C. Gilbert
COMMITTEE CLERK

Ken Autbelink
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

HB 2250

SENATE COMMITTEE REPORT

Natural Resources

May 15, 2003 - 10:00AM

AGAINST: Mahoney, Mike General Manager (Evergreen Underground Water Conservation District), Pleasanton, TX

Registering, but not testifying:

FOR: Messer, Bill (Rio Nuevo), Austin, TX

Parker, Richard Attorney (Texas Association of Land Developers), Austin, TX

AGAINST: Everheart, Harvey General Manager (Mesa Underground Water Conservation District), Lamesa, TX

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2250
By: Flores (Lucio)
Natural Resources
5/19/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

The Rio Grande watermaster is responsible for allocating, monitoring and controlling the use of surface water in the Rio Grande Basin from Fort Quitman to the mouth of the Rio Grande. Unlike elsewhere in Texas where water is a flow resource, surface water in the Rio Grande below Amistad is a stock resource meaning that water accumulates in Amistad and Falcon reservoirs and is released on demand. Amistad and Falcon reservoirs are considered one system with water frequently released from the upstream dam (Amistad) to replenish Falcon reservoir and meet the demands in the Lower Rio Grande Valley. The watermaster is the authorized agent allowed to request releases of United States water held in storage at Amistad/Falcon. In addition to the existing authority of watermasters, C.S.H.B. 2250 makes clear that the Rio Grande watermaster has certain roles in cases of imminent threat to public health and safety or the environment. C.S.H.B. 2250 requires the Texas Commission on Environmental Quality (TCEQ) to make rules to define the scope of those duties. The bill also clarifies that the Rio Grande watermaster has the authority, in accordance with rules prescribed by TCEQ, to transport new water from an upriver seller to a down river buyer and to divert the water to the buyer (subject to a water loss formula). A bed and banks permit would be required for the transportation of the water.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 11.3271, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter G, Chapter 11, Water Code, by adding Section 11.3271, as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) Provides that this section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) Requires the watermaster to divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) Requires the watermaster to regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) Authorizes the watermaster to regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

(e) Provides that the watermaster's duties do not include activities that relate to other programs of the commission, except as provided by this section. Requires the watermaster's duties to include activities that relate to situations of imminent

threat to public health and safety or the environment. Requires the Texas Commission on Environmental Quality (TCEQ) to adopt rules defining situations of imminent threat under this section and addressing the watermaster's duties in response to terrorism.

(f) Authorizes the watermaster to store in a reservoir for release at a later time water in transit that is being conveyed down the banks and bed of the Rio Grande under a permit issued by TCEQ and in accordance with rules prescribed by the commission. Defines "water in transit". Requires the contract to specify that the contract is for the purchase and delivery of a specified amount of water less the carriage losses incurred in transit, as described and measured according to commission rules.

(g) Authorizes the watermaster to store water under Subsection (f) only if the storage does not hinder the ability of any other holders of Rio Grande surface water rights to store the maximum authorized capacity in a reservoir as specified by TCEQ rules and relevant permits, certified filings, or certificates of adjudication.

(h) Requires TCEQ, before granting a permit to convey water down the banks and bed of the Rio Grande, to adopt rules that provide for the methods and procedures by which the watermaster shall account for any discharge, delivery, conveyance, storage, diversion, or associated loss of water conveyed down the banks and bed of the Rio Grande. Prohibits a permit to convey water down the banks and bed of the Rio Grande from allowing the permit holder to share in any beneficial state water inflows into the Rio Grande. Provides that the permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses incurred in transit, as described and measured according to TCEQ rules. Requires a rule adopted by TCEQ under this subsection to be consistent with the Treaty Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United States and the United Mexican States on February 3, 1944, and with any minute order adopted by the International Boundary and Water Commission.

(i) Requires TCEQ, in considering an application for a permit to convey water down the banks and bed of the Rio Grande, to consider the quality of the water to be conveyed. Prohibits TCEQ from issuing a permit if it determines that the water to be conveyed would degrade the water quality of the Rio Grande.

(j) Requires the watermaster to maintain a central repository which shall be made available to the public that includes certified copies of all instruments, including deeds, deeds of trusts and liens that TCEQ requires to be filed in connection with water rights relating to water in the lower, middle, and upper basin of the Rio Grande and that are subject to a permit, certified filing or certificate of adjudication. Requires a lien against a water right, on or after September 1, 2003, to not be effective against third parties unless a certified copy of the instrument is filed with the watermaster and all requirements under other law are met. Provides that the validity of any liens or filings made prior to September 1, 2003, is not affected by this section. Provides that this section does not affect the validity of a lien as between the holder of the water right and the holder of the lien or the requirements or validity of any other law governing the perfection and recordation of these instruments. Authorizes the executive director to charge a fee for the filing of certified copies of instruments. Requires a fee collected under this section to be deposited to the credit of the watermaster fund.

(k) Provides that this section does not apply to the Rio Grande above the Fort Quitman Dam.

SECTION 2. (a) Effective date: September 1, 2003.

(b) Requires TCEQ, as soon as practicable after September 1, 2003, to adopt rules necessary for the implementation of this Act and to expedite any application for a permit for the delivery of water down the banks and bed of the Rio Grande under Section 11.042, Water Code.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 20, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2250** by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
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2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>WATERMASTER ADMINISTRATION</i> 158	Probable (Cost) from <i>WATERMASTER ADMINISTRATION</i> 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
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2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

The bill would require the watermaster to maintain a central repository for certified copies of all instruments, including deeds, financing statements, security agreements and liens relating to water in the upper, middle, or lower Rio Grande. The watermaster would be authorized to collect a fee for the recordation of instruments under this provision.

In addition, the bill would include duties of the watermaster activities that address situations of imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that additional resources would be required for the following: to conduct water loss computations on a daily basis; to maintain the document repository required by the bill; and to conduct investigations of water pumping and delivery sites along the entire river. In addition, since current law does not require water quality to be considered as a basis for granting water rights, it is expected that the watermaster would have additional workload determining the impact of a water right on water quality. These additional duties are expected to result in the need for 2 additional FTEs.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 7, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2250** by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, As Engrossed: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
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2008	\$0

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Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

In addition, the bill would include as a duties of the watermaster activities that address situations of

imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river. In addition, current law does not require water quality to be considered as a basis for granting water rights, so it is expected that the watermaster would have additional workload determining the impact of a water right on water quality.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 29, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2250** by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>WATERMASTER ADMINISTRATION</i> 158	Probable (Cost) from <i>WATERMASTER ADMINISTRATION</i> 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
2005	\$106,043	(\$106,043)	2.0
2006	\$106,043	(\$106,043)	2.0
2007	\$106,043	(\$106,043)	2.0
2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

In addition, the bill would include as a duties of the watermaster activities that address situations of imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river. In addition, current law does not require water quality to be considered as a basis for granting water rights, so it is expected that the watermaster would have additional workload determining the impact of a water right on water quality.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 1, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the duties of the Rio Grande watermaster.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
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All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>WATERMASTER ADMINISTRATION</i> 158	Probable (Cost) from <i>WATERMASTER ADMINISTRATION</i> 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
2005	\$106,043	(\$106,043)	2.0
2006	\$106,043	(\$106,043)	-2.0
2007	\$106,043	(\$106,043)	2.0
2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, CL, DLBa, TL

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 2250, by Flores / LUCIO,
(Bill No.) (Author/Sponsor)
was heard by the Committee on Natural Resources on 5/16, 2003,
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Kelly C. Gilbert
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

((INSERT to backed doc)))

ADOPTED

MAY 27-2003

Patry Drew
Secretary of the Senate

By: Lucio

H.B. No. 2250

Substitute the following for H.B. No. 2250

By: Lucio

C.S. H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 11, Water Code, is amended by adding Section 11.3271 to read as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
14 section, "water in transit" means privately owned water, not
15 including state water, that a person has pumped from an underground
16 reservoir and that is in transit between the point of discharge into
17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
20 purchase and delivery of a specified amount of water less the
21 carriage losses incurred in transit, as described and measured
22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
3 and bed of the Rio Grande, the commission shall adopt rules that
4 provide for the methods and procedures by which the watermaster
5 shall account for any discharge, delivery, conveyance, storage,
6 diversion, or associated loss of water conveyed down the banks and
7 bed of the Rio Grande. A permit to convey water down the banks and
8 bed of the Rio Grande may not allow the permit holder to share in any
9 beneficial state water inflows into the Rio Grande. The permit
10 holder is entitled to convey only the amount of water specified in
11 the permit, less the carriage losses incurred in transit, as
12 described and measured according to commission rules. A rule
13 adopted by the commission under this subsection must be consistent
14 with the Treaty Relating to the Utilization of the Waters of the
15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
17 States and the United Mexican States on February 3, 1944, and with
18 any minute order adopted by the International Boundary and Water
19 Commission.

20 (i) In considering an application for a permit to convey
21 water down the banks and bed of the Rio Grande, the commission shall
22 consider the quality of the water to be conveyed. The commission
23 may not issue a permit if it determines that the water to be
24 conveyed would degrade the water quality of the Rio Grande.

25 (j) The watermaster shall maintain a central repository
26 which shall be made available to the public that includes certified
27 copies of all instruments, including deeds, deeds of trusts, and

1 liens, that the commission requires to be filed in connection with
2 water rights relating to water in the lower, middle, or upper basin
3 of the Rio Grande and that are subject to a permit, certified
4 filing, or certificate of adjudication. On or after September 1,
5 2003, a lien against a water right shall not be effective against
6 third parties unless a certified copy of the instrument is filed
7 with the watermaster and all requirements under other law are met.
8 The validity of any liens or filings made prior to September 1,
9 2003, is not affected by this section. This section does not affect
10 the validity of a lien as between the holder of the water right and
11 the holder of the lien or the requirements or validity of any other
12 law governing the perfection and recordation of these instruments.
13 The executive director may charge a fee for the filing of certified
14 copies of instruments. A fee collected under this section shall be
15 deposited to the credit of the watermaster fund.

16 (k) This section does not apply to the Rio Grande above the
17 Fort Quitman Dam.

18 SECTION 2. (a) This Act takes effect September 1, 2003.

19 (b) As soon as practicable after September 1, 2003, the
20 Texas Commission on Environmental Quality shall adopt rules
21 necessary for the implementation of this Act and shall expedite any
22 application for a permit for the delivery of water down the banks
23 and bed of the Rio Grande under Section 11.042, Water Code.

SENATE AMENDMENTS

03 MAY 27 PM 3: 14

2nd Printing

HOUSE OF REPRESENTATIVES

By: Flores

H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
14 section, "water in transit" means privately owned water, not
15 including state water, that a person has pumped from an underground
16 reservoir and that is in transit between the point of discharge into
17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
20 purchase and delivery of a specified amount of water less the
21 carriage losses incurred in transit, as described and measured
22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
 3 and bed of the Rio Grande, the commission shall adopt rules that
 4 provide for the methods and procedures by which the watermaster
 5 shall account for any discharge, delivery, conveyance, storage,
 6 diversion, or associated loss of water conveyed down the banks and
 7 bed of the Rio Grande. A permit to convey water down the banks and
 8 bed of the Rio Grande may not allow the permit holder to share in any
 9 beneficial state water inflows into the Rio Grande. The permit
 10 holder is entitled to convey only the amount of water specified in
 11 the permit, less the carriage losses incurred in transit, as
 12 described and measured according to commission rules. A rule
 13 adopted by the commission under this subsection must be consistent
 14 with the Treaty Relating to the Utilization of the Waters of the
 15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
 16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
 17 States and the United Mexican States on February 3, 1944, and with
 18 any minute order adopted by the International Boundary and Water
 19 Commission.

20 (i) In considering an application for a permit to convey
 21 water down the banks and bed of the Rio Grande, the commission shall
 22 consider the quality of the water to be conveyed. The commission
 23 may not issue a permit if it determines that the water to be
 24 conveyed would degrade the water quality of the Rio Grande.

25 (j) Notwithstanding any other law, the watermaster is the
 26 official recorder for all instruments, including deeds, deeds of
 27 trust, financing statements, security agreements, and liens, that

1 the commission authorizes or requires to be filed in connection
2 with water rights relating to water in the lower, middle, or upper
3 basin of the Rio Grande that are subject to a permit, certified
4 filing, or certificate of adjudication. An instrument shall be
5 filed with the watermaster under this subsection in the same manner
6 as required by other law for the same type of instrument. The
7 filing of an instrument under this subsection results in the same
8 legal and administrative status and consequences as a filing under
9 other law for the same type of instrument. An instrument filed
10 under this subsection shall be construed by a court, financial
11 institution, or other affected person in the same manner as an
12 instrument of the same type that is filed under other law. The
13 watermaster may charge and collect a fee for the recordation of
14 instruments under this subsection in the same amount as the fee
15 collected by the county clerk of Cameron County for the recordation
16 of similar instruments. The commission by rule shall prescribe the
17 procedures necessary for the proper implementation of this
18 subsection, including reasonable transition provisions, if
19 appropriate.

20 (k) This section does not apply to the Rio Grande above the
21 Fort Quitman Dam.

22 SECTION 2. (a) This Act takes effect September 1, 2003.

23 (b) As soon as practicable after September 1, 2003, the
24 Texas Commission on Environmental Quality shall adopt rules
25 necessary for the implementation of this Act and shall expedite any
26 application for a permit for the delivery of water down the banks
27 and bed of the Rio Grande under Section 11.042, Water Code.

ADOPTED

MAY 27 2003

Letty Spaul
Secretary of the Senate

By: Lucio

H.B. No. 2250

Substitute the following for H.B. No. 2250

By: Lucio

C.S. H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

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(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
14 section, "water in transit" means privately owned water, not
15 including state water, that a person has pumped from an underground
16 reservoir and that is in transit between the point of discharge into
17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
20 purchase and delivery of a specified amount of water less the
21 carriage losses incurred in transit, as described and measured
22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
3 and bed of the Rio Grande, the commission shall adopt rules that
4 provide for the methods and procedures by which the watermaster
5 shall account for any discharge, delivery, conveyance, storage,
6 diversion, or associated loss of water conveyed down the banks and
7 bed of the Rio Grande. A permit to convey water down the banks and
8 bed of the Rio Grande may not allow the permit holder to share in any
9 beneficial state water inflows into the Rio Grande. The permit
10 holder is entitled to convey only the amount of water specified in
11 the permit, less the carriage losses incurred in transit, as
12 described and measured according to commission rules. A rule
13 adopted by the commission under this subsection must be consistent
14 with the Treaty Relating to the Utilization of the Waters of the
15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
17 States and the United Mexican States on February 3, 1944, and with
18 any minute order adopted by the International Boundary and Water
19 Commission.

20 (i) In considering an application for a permit to convey
21 water down the banks and bed of the Rio Grande, the commission shall
22 consider the quality of the water to be conveyed. The commission
23 may not issue a permit if it determines that the water to be
24 conveyed would degrade the water quality of the Rio Grande.

25 (j) The watermaster shall maintain a central repository
26 which shall be made available to the public that includes certified
27 copies of all instruments, including deeds, deeds of trusts, and

1 liens, that the commission requires to be filed in connection with
2 water rights relating to water in the lower, middle, or upper basin
3 of the Rio Grande and that are subject to a permit, certified
4 filing, or certificate of adjudication. On or after September 1,
5 2003, a lien against a water right shall not be effective against
6 third parties unless a certified copy of the instrument is filed
7 with the watermaster and all requirements under other law are met.
8 The validity of any liens or filings made prior to September 1,
9 2003, is not affected by this section. This section does not affect
10 the validity of a lien as between the holder of the water right and
11 the holder of the lien or the requirements or validity of any other
12 law governing the perfection and recordation of these instruments.
13 The executive director may charge a fee for the filing of certified
14 copies of instruments. A fee collected under this section shall be
15 deposited to the credit of the watermaster fund.

16 (k) This section does not apply to the Rio Grande above the
17 Fort Quitman Dam.

18 SECTION 2. (a) This Act takes effect September 1, 2003.

19 (b) As soon as practicable after September 1, 2003, the
20 Texas Commission on Environmental Quality shall adopt rules
21 necessary for the implementation of this Act and shall expedite any
22 application for a permit for the delivery of water down the banks
23 and bed of the Rio Grande under Section 11.042, Water Code.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 20, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

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Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

The bill would require the watermaster to maintain a central repository for certified copies of all instruments, including deeds, financing statements, security agreements and liens relating to water in the upper, middle, or lower Rio Grande. The watermaster would be authorized to collect a fee for the recordation of instruments under this provision.

In addition, the bill would include duties of the watermaster activities that address situations of imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that additional resources would be required for the following: to conduct water loss computations on a daily basis; to maintain the document repository required by the bill; and to conduct investigations of water pumping and delivery sites along the entire river. In addition, since current law does not require water quality to be considered as a basis for granting water rights, it is expected that the watermaster would have additional workload determining the impact of a water right on water quality. These additional duties are expected to result in the need for 2 additional FTEs.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

2

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 7, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **As Engrossed**

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imminent threat to public health, safety, or the environment, including terrorism.

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Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 29, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>WATERMASTER ADMINISTRATION</i> 158	Probable (Cost) from <i>WATERMASTER ADMINISTRATION</i> 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
2005	\$106,043	(\$106,043)	2.0
2006	\$106,043	(\$106,043)	2.0
2007	\$106,043	(\$106,043)	2.0
2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality (TCEQ) for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water. The bill would provide that such water rights could not hinder the rights of other surface water right holders, and that rules adopted by the TCEQ be consistent with a 1944 treaty with Mexico. The bill would also require that the TCEQ consider water quality when considering an application for water rights.

In addition, the bill would include as a duties of the watermaster activities that address situations of imminent threat to public health, safety, or the environment, including terrorism.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river. In addition, current law does not require water quality to be considered as a basis for granting water rights, so it is expected that the watermaster would have additional workload determining the impact of a water right on water quality.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs. These fees would be deposited to the Watermaster Administration Account No. 158.

No significant fiscal impact is expected as a result of the bill's provision's relating to watermaster duties in response to terrorism.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, SD, CL, DLBa, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 1, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2250 by Flores (Relating to the duties of the Rio Grande watermaster.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2250, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from WATERMASTER ADMINISTRATION 158	Probable (Cost) from WATERMASTER ADMINISTRATION 158	Change in Number of State Employees from FY 2003
2004	\$149,543	(\$149,543)	2.0
2005	\$106,043	(\$106,043)	2.0
2006	\$106,043	(\$106,043)	-2.0
2007	\$106,043	(\$106,043)	2.0
2008	\$106,043	(\$106,043)	2.0

Fiscal Analysis

The bill would provide for the Rio Grande Watermaster to administer water rights issued under a permit by the Texas Commission on Environmental Quality for water pumped from underground reservoirs, transported via the Rio Grande, and stored in a reservoir for the delivery of water.

Methodology

Current law does not provide for the allocation of groundwater pumped into the Rio Grande by the Rio Grande Watermaster. It is expected that passage of the bill would require increased accounting duties by the Rio Grande Watermaster. It is expected that water loss computations would have to be conducted on a daily basis, requiring one additional FTE. It is also expected that an additional FTE would be needed to conduct investigations of water pumping and delivery sites along the entire river.

Additional administrative costs are expected to be offset by revenues generated from fees that would be assessed on persons contracting for the sale and purchase of water pumped from underground reservoirs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, CL, DLBa, TL

ENROLLED
H.B. No. 2250

AN ACT

relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 11, Water Code, is amended by adding Section 11.3271 to read as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1 (e) The watermaster's duties do not include activities that
2 relate to other programs of the commission, except as provided by
3 this section. The watermaster's duties shall include activities
4 that relate to situations of imminent threat to public health and
5 safety or the environment. The commission shall adopt rules:

6 (1) defining situations of imminent threat under this
7 section; and

8 (2) addressing the watermaster's duties in response to
9 terrorism.

10 (f) The watermaster may store in a reservoir for release at
11 a later time water in transit that is being conveyed down the banks
12 and bed of the Rio Grande under a permit issued by the commission
13 and in accordance with rules prescribed by the commission. In this
14 section, "water in transit" means privately owned water, not
15 including state water, that a person has pumped from an underground
16 reservoir and that is in transit between the point of discharge into
17 the river and the place of use or the point of diversion by a person
18 who has contracted with the owner of the water to purchase the
19 water. The contract must specify that the contract is for the
20 purchase and delivery of a specified amount of water less the
21 carriage losses incurred in transit, as described and measured
22 according to commission rules.

23 (g) The watermaster may store water under Subsection (f)
24 only if the storage does not hinder the ability of any other holders
25 of Rio Grande surface water rights to store the maximum authorized
26 capacity in a reservoir as specified by commission rules and
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks
 3 and bed of the Rio Grande, the commission shall adopt rules that
 4 provide for the methods and procedures by which the watermaster
 5 shall account for any discharge, delivery, conveyance, storage,
 6 diversion, or associated loss of water conveyed down the banks and
 7 bed of the Rio Grande. A permit to convey water down the banks and
 8 bed of the Rio Grande may not allow the permit holder to share in any
 9 beneficial state water inflows into the Rio Grande. The permit
 10 holder is entitled to convey only the amount of water specified in
 11 the permit, less the carriage losses incurred in transit, as
 12 described and measured according to commission rules. A rule
 13 adopted by the commission under this subsection must be consistent
 14 with the Treaty Relating to the Utilization of the Waters of the
 15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from
 16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United
 17 States and the United Mexican States on February 3, 1944, and with
 18 any minute order adopted by the International Boundary and Water
 19 Commission.

20 (i) In considering an application for a permit to convey
 21 water down the banks and bed of the Rio Grande, the commission shall
 22 consider the quality of the water to be conveyed. The commission
 23 may not issue a permit if it determines that the water to be
 24 conveyed would degrade the water quality of the Rio Grande.

25 (j) The watermaster shall maintain a central repository
 26 which shall be made available to the public that includes certified
 27 copies of all instruments, including deeds, deeds of trust, and

1 liens, that the commission requires to be filed in connection with
2 water rights relating to water in the lower, middle, or upper basin
3 of the Rio Grande and that are subject to a permit, certified
4 filing, or certificate of adjudication. On or after September 1,
5 2003, a lien against a water right shall not be effective against
6 third parties unless a certified copy of the instrument is filed
7 with the watermaster and all requirements under other law are met.
8 The validity of any liens or filings made prior to September 1,
9 2003, is not affected by this section. This section does not affect
10 the validity of a lien as between the holder of the water right and
11 the holder of the lien or the requirements or validity of any other
12 law governing the perfection and recordation of these instruments.
13 The executive director may charge a fee for the filing of certified
14 copies of instruments. A fee collected under this section shall be
15 deposited to the credit of the watermaster fund.

16 (k) This section does not apply to the Rio Grande above the
17 Fort Quitman Dam.

18 SECTION 2. (a) This Act takes effect September 1, 2003.

19 (b) As soon as practicable after September 1, 2003, the
20 Texas Commission on Environmental Quality shall adopt rules
21 necessary for the implementation of this Act and shall expedite any
22 application for a permit for the delivery of water down the banks
23 and bed of the Rio Grande under Section 11.042, Water Code.

H.B. No. 2250

President of the Senate

Speaker of the House

I certify that H.B. No. 2250 was passed by the House on May 2, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2250 on May 28, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2250 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 2250[✓] was passed by the House on

May 2[✓]
(2)

(1)

, 2003, by a non-record vote;

and that the House concurred in Senate amendments to H.B. No. 2250[✓]

on May 28[✓], 2003, by a non-record vote.

(3)

Chief Clerk of the House

**** Preparation: CT47;

I certify that H.B. No. 2250[✓] was passed by the Senate, with

(1)

amendments, on May 27[✓], 2003, by the

(2)

following vote: Yeas 31[✓], Nays 0[✓].

(3)

(4)

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT32;

H.B. No. 2250

By 

A BILL TO BE ENTITLED
AN ACT

relating to the prevention of, prosecution of, and punishment of identity theft and to assistance to certain victims of identity theft; providing penalties.

MAR 11 2003 Filed with the Chief Clerk

MAR 18 2003 Read first time and referred to Committee on Natural Resources

APR 28 2003 Reported favorably (~~unanimously~~)
(as substituted)

APR 29 2003 Sent to Committee on (~~Calendars~~)
(Local & Consent Calendars)

MAY 02 2003 Read second time (comm. subst.) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote)
(~~record vote of~~ yeas, nays, present, not voting)

MAY 02 2003 Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of yeas, nays, present, not voting

MAY 02 2003 Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (non-record vote)
(~~record vote of~~ yeas, nays, present, not voting)

MAY 05 2003 Engrossed

MAY 05 2003 Sent to Senate


CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 05 2003 Received from the House

MAY 07 2003 Read and referred to Committee on NATURAL RESOURCES

MAY 21 2003 Reported favorably

MAY 21 2003 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

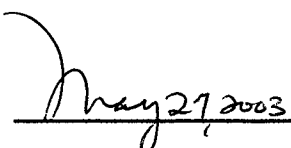
MAY 27 2003 Laid before the Senate

MAY 27 2003 Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(yeas, nays)

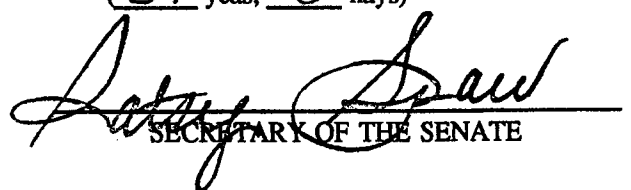
MAY 27 2003 Read second time, , and passed to third reading by (unanimous consent)
(~~a viva voce vote~~)
(yeas, nays)

MAY 27 2003 Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 27 2003 Read third time, , and passed by (~~a viva voce vote~~)
(31 yeas, 0 nays)

 May 27 2003 Returned to the House

OTHER SENATE ACTION:


SECRETARY OF THE SENATE

MAY 27 2003

Returned from the Senate (as substituted)
(with amendments)

MAY 28 2003

House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

House conferees appointed: _____, Chair; _____,
_____, _____, _____

Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

03 APR 29 PM 3:14 HOUSE OF REPRESENTATIVES
03 MAY 27 PM 3:14 HOUSE OF REPRESENTATIVES